



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201642040

JUL 21 2016

SET: EP: RA: T: 2

U.I.L. 408.03-00

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XXXXXXXXXXXXXXXXXXXXX

Legend:

Taxpayer A = XXXXXXXXXXXXXXXX

IRA X = XXXXXXXXXXXXXXXX

Financial Institution B = XXXXXXXXXXXXXXXX

Bank N = XXXXXXXXXXXXXXXX

Investment Account F = XXXXXXXXXXXXXXXX

Amount D = XXXXXXXXXXXXXXXX

Date 1 = XXXXXXXXXXXXXXXX

Date 2 = XXXXXXXXXXXXXXXX

Dear xxxxxxxxxxxx:

This is in response to your letter dated January 12, 2016, as supplemented by correspondence dated June 13, 2016, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalty of perjury in support of your request.

On Date 1, Taxpayer A received a distribution from IRA X totaling Amount D. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to his medical condition which affects his ability to manage his financial affairs.

Taxpayer A maintained IRA X with Financial Institution B. Taxpayer A represents that he was hospitalized from January, 2015 through May, 2015. On Date 1, Taxpayer A withdrew Amount D from IRA X and was soon after hospitalized again. Taxpayer A further represents that during the 60-day period, beginning on Date 1, he went through numerous therapy sessions daily in order to regain strength and mental competency.

On Date 1, Taxpayer A received a distribution from IRA X which was deposited into his account with Bank N. Taxpayer A took the distribution in order to have enough funds to purchase a home near his family if he was unable to sell his current home in a timely manner. Taxpayer A asserts that on Date 2, he sold his current home and his son requested an electronic transfer of Amount D from Bank N to Financial Institution B for deposit back into IRA X. Without Taxpayer A's knowledge, Amount D was mistakenly deposited into investment Account F, a non-IRA account, instead of IRA X.

Taxpayer A represents that he did not realize the error that Amount D had not been rolled over into IRA X until December, 2015 when he reviewed his account with Financial Institution B. Amount D has not been used for any other purpose and remains in Investment Account F.

Documentation from Taxpayer A's physician shows that Taxpayer A has several medical conditions and is considered to be disabled.

Based on the facts and representations, Taxpayer A requests that the Internal Revenue Service (Service) waive the 60 day rollover requirement with respect to the distribution of Amount D.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if-

- (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual received the payment or distribution; or

- (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not included in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity and good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occur after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R. B. 359, provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, or hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover was due to his medical condition.

Therefore, pursuant to Code section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount D from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to rollover Amount D into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Amount D will be considered a rollover contribution

within the meaning of section 408(d)(3) of the Code.

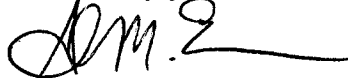
This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

This letter is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you have any questions regarding this letter, please contact xxxxxxxxxxxx, ID# xxxxxx xxxxx, at xxxxxxxxxxxxxxxx. All correspondence should be addressed to SE:T:EP:RA:T:2.

Sincerely yours,



Sherri M. Edelman, Manager
Employee Plans Technical Group 2

Enclosures:

Deleted copy of letter ruling
Notice of Intention to Disclose